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THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. VOS-012 (107070.113)

Applicant: Bruestle, O.

) Examiner: Baker, A.

Serial No.: 09/581,890

COPY OF PAPERS  
ORIGINALLY FILED

) Art Unit: 1632

Filed: August 28, 2000

Title: NEURAL PRECURSOR CELLS, METHOD  
FOR THE PRODUCTION AND USE  
THEREOF IN NEURAL DEFECT THERAPY

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**CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner For Patents, Washington, D.C. 20231 on the date set forth below.

Date: 3/26/02

By: Sharon R. Matthews

Commissioner for Patents  
Washington, DC 20231

**RESPONSE TO RESTRICTION REQUIREMENT**

Dear Sir:

Claims 1-30 and 39-46 are pending in this application, and are subject to a Restriction Requirement dated December 26, 2001.

Applicant elects the claims of Group I (claims 1-15 and 46), directed to isolated embryonic stem-cell derived precursor cells with neuronal and glial properties and a pharmaceutical composition comprising said precursor cells, for prosecution at this time, with traverse.

In the Restriction Requirement, the Examiner opines that the inventions listed as Groups I-V do not relate to a single inventive concept under PCT rule 13.1, because under PCT Rule 13.2, they lack the same or corresponding special technical features. Applicant respectfully disagrees.

Group I (claims 1-15 and 46) is directed to isolated, embryonic stem cell-derived precursor cells with neuronal and glial properties and a pharmaceutical composition comprising these precursor cells. Group II (claims 16-17) is directed to neural spheres, which are aggregates of the neuronal precursor cells of Group I. The subject matter of Groups I and II is thus directed to the same precursor cells. Therefore, Applicant submits that Groups I and II relate to the same inventive concept and share the same special technical features.

Groups III (claims 18-30), IV (claims 39-42, 44, and 45), and V (claim 43) are directed to methods for producing and using the isolated, embryonic stem cell-derived precursor cells with neuronal and glial properties.

The Restriction Requirement states that “although the cells of Group I can be made using the method of Group III, the cells of Group I can be made by other methods known in the art.” Applicants respectfully disagree, as at the time of filing the prior art had not provided a method for generating such cells in unlimited quantities.

Applicant respectfully submits that under 37 CFR 1.475 (b) (3), a national stage application containing claims to different categories of inventions will be considered to have unity of invention if the claims are drawn to a product, a process specially adapted for the manufacture of the product, and a use of the product. Therefore, Applicant respectfully submits that unity of invention is present.

Applicant requests a one-month extension of time up to and including February 26, 2002 to respond to the Restriction Requirement mailed December 26, 2001. Please charge our Deposit Account No. 08-0219 the required fee pursuant to 37 C.F.R. 1.17(a)(4).

Applicant believes no additional fees are due with this filing. However, please charge any underpayments or credit any overpayments to our Deposit Account No. 08-0219.

If there are any questions, please call the undersigned at the telephone number indicated below.

Respectfully submitted,



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February 26, 2002  
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